UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

08 JUN -9 AM 9:46

UNITED STATES OF AMERICA, Plaintiff, v. **1) Jorge Rene BERNAL-Guzman** **2) Argenis REYES-Graham** **3) Jose PEREZ-Morales** **4) Tulio ESPINOZA-De Los Monteros** Defendant(s)	Magistrate Case No. '08 MJ 1781 COMPLAINT FOR VIOLATION OF: Title 8 U.S.C., Sec. 1324 (a)(2)(B)(iii) Bringing in Illegal Aliens Without Presentation

The undersigned complainant, being duly sworn, states:

On or about **June 6, 2008,** within the Southern District of California, defendants **Jorge Rene BERNAL-Guzman, Argenis REYES-Graham, Jose PEREZ-Morales, and Tulio ESPINOZA- De Los Monteros**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Angel PEREZ-Bailon and Jose HERNANDEZ-Ortiz,** had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 9th DAY OF **JUNE, 2008**

Ruben B. Brooks
UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:
1) Jorge Rene BERNAL-Guzman
2) Argenis REYES-Graham
3) Jose PEREZ-Morales
4) Tulio ESPINOZA- De Los Monteros

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

Furthermore, the complainant states that **Angel PEREZ-Bailon and Jose HERNANDEZ-Ortiz** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On June 6, 2008, Border Patrol Agent C. Llamas and Border Patrol Agent I. Quinones were performing line-watch duties on the All Terrain Vehicle (ATV unit) near Dairy Mart Road. At approximately 8:55 a.m., they responded to a seismic sensor activation near an area known as "East Smugglers". "East Smugglers" is approximately 50 yards north of the United States/Mexico International Boundary Fence and approximately 3 miles west of the San Ysidro, California Port of Entry. Illegal aliens trying to further their illegal entry into the United States commonly use this area.

Agent Llamas and Agent Quinones responded to the area and upon arriving they encountered three individuals hiding under some heavy brush. Agents Llamas and Quinones immediately identified themselves as United States Border Patrol Agents and questioned the individuals, including one later identified as defendant **Jorge Rene BERNAL-Guzman**, as to their citizenship and nationality. All subjects, including BERNAL, freely admitted to being citizens and nationals of Mexico and in the United States illegally without any proper immigration documents. All individuals were subsequently arrested.

While Agents Llamas and Quinones waited for the transport unit, BERNAL's cellular phone rang. Agent Llamas impersonated BERNAL and answered the cellular phone. The individual calling, who's name was Armando, asked for Jorge and if he was already by the pink house just south of Monument Road. Agent Llamas stated that he was already in the area as planned and that he had the other two bodies ready to be picked up. Armando, who was coordinating the loads via cellular phone, told Agent Llamas that a red pick up truck was going to scout the area for Border Patrol Agents and stated that a green Honda being driven by a heavy set guy with glasses was going to pick up the three illegal aliens that were already in custody. Agent Llamas then relayed all this information to all the Agents working in the area via Service radio.

On June 6, 2008, at approximately 9:30 a.m., Supervisory Border Patrol Agent O. Alvarez received the information from Agent Llamas about the two vehicles on their way to pick up the three illegal aliens. Agent Alvarez responded to the area to investigate the report from Agent Llamas. Agent Alvarez arrived to the area and noticed a red Chevrolet pick-up truck driving eastbound on Monument Road. Monument Road is approximately 300 yards north of the United States/Mexico International Border and is notorious for the presence of illegal aliens and smugglers attempting to pickup and smuggle illegal aliens. Agent Alvarez ran record checks on the vehicle which indicated the vehicle was not of the local area. Agent Alvarez initiated a vehicle stop to investigate the report of possible alien smuggling. Agent Alvarez identified himself as a Border Patrol Agent to the driver, later identified as defendant **Argenis REYES-Graham**, and asked him where he was going. REYES stated he was looking for the DMV which is nowhere near Monument Road.

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At that time, Agent Llamas advised Agent Alvarez that Armando had called again and stated to the "guide" to load up in the green Honda because the Border Patrol had stopped the red pickup truck. Due to this information passed on from Agent Llams, Agent Alvarez believed REYES was conspiring to smuggle aliens so he was placed under arrest and transported to the Imperial Beach Border Patrol Station.

Agent Alvarez then began to search for the green Honda. A short time later, Agent Alvarez spotted a green Honda driving north on Hollister Road from Monument Road. The driver matched the description given earlier of a heavyset male with glasses. The vehicle was headed northbound, away from the border so Agent Alvarez suspected that it may have been loaded already. Agent Alvarez initiated a vehicle stop. As Agent Alvarez approached the driver, later identified as defendant **Jose PEREZ-Morales**, he stated "I don't have any 10-45 if that's what you're looking for." Agent Alvarez asked PEREZ what he meant by 10-45 and he stated that was the term used when he was arrested for alien smuggling before. Agent Alvarez asked PEREZ what he was doing in the area and stated he was looking for a friend that was broken down in the area. Agent Llamas arrived on scene at which time he received a phone call from the smuggler coordinating the pickup. The smuggler asked if there were any border patrol agents in the area at which time Agent Llamas told him no it was clear. The smuggler then stated that he was going to call the green Honda to let him know that it was clear. After Agent Llamas ended the conversation with the smuggler, a moment later PEREZ' cell phone rang. Agent Llamas noticed the number that was calling PEREZ' phone which was the same number that had been calling the foot guides cell phone in an attempt to coordinate the smuggling event. PEREZ was then placed under arrest for conspiracy of alien smuggling and was transported to the Imperial Beach Border Patrol Station.

At approximately 2:30 p.m., Agent Llamas received another call indicating there was another vehicle being dispatched to the area to make a third attempt to pick up the three illegal aliens. This vehicle was going to be a white Chevrolet Blazer. At approximately 3:00 p.m., Agent Alvarez noticed a white Chevrolet Blazer driving very slow eastbound on Monument Road. Being that the information provided earlier had been reliable, Agent Alvarez initiated a vehicle stop. As Agent Alvarez approached the passenger side window, he overheard the driver, later identified as defendant **Tulio ESPINOZA-De los MONTERO**, talking into a cell phone saying in the Spanish language "don't call me the Border Patrol is here." Agent Alvarez heard the person on the other line also say in spanish "are you going to pick them up or should I find some one else". Agent Alvarez asked ESPINOZA if that was his phone and stated it was but he did not know the person talking on the phone. Agent Alvarez looked inside the vehicle and noticed the back seat was missing. Smugglers often times remove seats from vehicles to fit more people and to better conceal them. Agent Alvarez asked ESPINOZA who the owner of the vehicle was and stated he did not know but was told to pick it up at a park somewhere on Coronado Avenue. Agent Alvarez then placed ESPINOZA under arrest for suspicion of conspiring to smuggle illegal aliens.

DEFENDANT STATEMENT: Jose PEREZ-Morales

Defendant Jose PEREZ-Morales was advised of his Miranda rights in the English Language which he understood and was willing to make a statement without an attorney present. PEREZ stated that he was born in San Diego, California. When questioned as to his involvement in alien smuggling activities on today's date, PEREZ stated that early this morning, a friend of his named Argenis REYES, contacted him and asked him if he wanted to pick up undocumented aliens. PEREZ stated that he needed money and accepted. PEREZ stated that he was unsure as to how many aliens were supposed to be picked up, but that they were suppose to pick them up near Hollister Street near a pink house. PEREZ stated that REYES was driving a

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CONTINUATION OF COMPLAINT:
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truck while he was driving a Honda Accord. PEREZ stated that he was receiving numerous calls from different people who were providing him instructions of where the illegal aliens that he was to pick up were located. The unknown callers instructed PEREZ to head to a pink house. PEREZ stated that he expected to receive monetary compensation for his participation in picking up aliens but was unsure how much he was to get paid. PEREZ stated that upon picking up the aliens, they were supposed to drop of the people at a public location, possibly a Carl's Jr.

DEFENDANT STATEMENT: Argenis REYES-Graham

Defendant Argenis REYES-Graham was advised as to his Miranda rights in the English Language which he understood and was willing to answer questions without an attorney present. REYES stated that he was born in National City, California. When questioned as to his involvement in alien smuggling activities, REYES stated that at approximately 9:00 a.m., he was at a friend's house, defendant Jose PEREZ-Morales, when he was contacted by a subject named Armando via Nextel radio. REYES stated that Armando is an alien recruiter in Mexico. REYES stated that he obtained Armando's contact information from an alien smuggler named Hugo GUERRERO. Armando told REYES that there were three illegal aliens and a foot guide that needed to be picked up. REYES stated that Armando told him that the people would be waiting to be picked up at the pink house on Monument Road, east of Hollister Street. REYES accepted to pick up the aliens. REYES stated that he asked PEREZ if he could borrow his car to pick up the aliens. REYES stated that PEREZ declined and stated that he would pick up the aliens. REYES states that his role on today's date was to serve as a scout and communicate if there was any Border Patrol presence in the area. REYES stated that upon successfully picking up the aliens, they were suppose to take the people to the Albertson's parking lot on University and Fairmont in San Diego, California. REYES stated that PEREZ would pay him his share. REYES stated that he expected to receive $200 USD on today's date. REYES admitted to working as a scout for Armando approximately five times in the past. REYES stated that he has successfully picked up aliens once. On that occasion, the people were transported to the Albertson's parking lot on University and Fairmont in San Diego, CA.

DEFENDANT STATEMENT: Tulio ESPINOZA-De Los Monteros

Defendant Tulio ESPINOZA-De Los Monteros was advised of his Miranda rights in the English Language which he understood and was willing to answer questions without an attorney present. ESPINOZA stated he was born in San Diego, California. When questioned as to his involvement in alien smuggling activities on today's date, ESPINOZA stated that at approximately 11:00 a.m., he received a call from an individual known as "el Negro". "El Negro" asked ESPINOZA if he wanted to pick up some illegal aliens who would be waiting near the pink house. ESPINOZA accepted to pick up the aliens but did not know how much he would get paid since payment is usually discussed last. ESPINOZA stated that in the past "el Negro" has paid him $100 USD per smuggled alien. ESPINOZA stated that "el Negro" told him to head to the park on Hollister Street and Coronado Avenue. ESPINOZA was instructed to locate a white, Chevrolet Blazer and utilize the conveyance to pick up the aliens. ESPINOZA stated that the keys were hidden in the gas tank. ESPINOZA stated that he was receiving telephone calls from the foot guide, instructing him to go to the pink house on Monument Road and pick them up. ESPINOZA stated that upon successfully picking up the aliens, "el Negro" would contact him to indicate where to transport the aliens. ESPINOZA stated that when the Border Patrol encountered him he was still receiving instruction from the foot guide on where to pick them up. ESPINOZA stated that he erased "el Negro's" phone number before he was arrested by Border Patrol.

CONTINUATION OF COMPLAINT:

1) **Jorge Rene BERNAL-Guzman**
2) **Argenis REYES-Graham**
3) **Jose PEREZ-Morales**
4) **Tulio ESPINOZA- De Los Monteros**

MATERIAL WITNESSES STATEMENTS:

Material witnesses **Angel PEREZ-Bailon and Jose HERNANDEZ-Ortiz** agree in summary that they are citizens and nationals of Mexico illegally present in the United States and did not have any immigration documents allowing them to be or remain in the United States legally. They stated that they made arrangements in Mexico to be smuggled into the United States illegally. Material witnesses **Angel PEREZ-Bailon** and **Jose HERNANDEZ-Ortiz** were shown a photo line up and positively identified the defendant **Jorge Rene BERNAL-Guzman** as the individual that was in front of the group before they were apprehended.

Executed on June 8, 2008, at 9:00 a.m.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 4 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **June 6, 2008**, in violation of Title **8**, United States Code, Section **1324**.

Ruben B. Brooks
United States Magistrate Judge

6/8/2008 at 9:30 a.m.
Date/Time